

VZCZCXRO3105
PP RUEHROV
DE RUEHNR #0369/01 0571034
ZNR UUUUU ZZH
P 261034Z FEB 09
FM AMEMBASSY NAIROBI
TO RUEHC/SECSTATE WASHDC PRIORITY 8607
RUCNIAD/IGAD COLLECTIVE
RUEHDR/AMEMBASSY DAR ES SALAAM 6351
RUEHDJ/AMEMBASSY DJIBOUTI 0031
RHMFIUU/CJTF HOA
RUZEFAA/CDR USAFRICOM STUTTGART GE
RUZEFAA/HQ USAFRICOM STUTTGART GE
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UNCLAS SECTION 01 OF 02 NAIROBI 000369

SIPDIS

DEPT FOR AF/E, DRL FOR MOLLIE DAVIS, LONDON AND PARIS FOR AFRICA
WATHCERS
E.O.12958: N/A
TAGS: [PHUM](#) [PGOV](#) [PREL](#) [ASEC](#) [MOPS](#) [KE](#)
SUBJECT: JOINT HEADS OF MISSION STATEMENT ON IMPUNITY IN KENYA

1. On February 26, the Ambassador joined in a statement on
impunity in Kenya, which was issued by Heads of Mission in Nairobi
regarding impunity in Kenya.

Begin text:
Statement on impunity in Kenya

We, the undersigned heads of diplomatic missions in Nairobi, welcome
Professor
Philip Alston's statement, UN Special Rapporteur on Extrajudicial,
Summary and
Arbitrary Executions, at the end of his visit to Kenya on 25
February 2009. We
consider his mission as an important element in efforts to ensure
that the
Kenyan reform agenda remains on track. Ending impunity, and impunity
for acts
committed by state officials in particular, forms an indelible part
of the
commitments undertaken as part of the Kenyan National Reconciliation
Act. We
are deeply concerned by Professor Alston's findings and urge the
Government of
Kenya to urgently consider what action it will take on his
recommendations.
These should not simply be dismissed. Action on the report and on
the security
reform elements of the Waki Report and Agenda 4, particularly the
formation of
the Police Reform Group and the Independent Police Complaints
Commission,
would constitute a clear signal that the Government is committed to
reform and
that it does not hesitate to show leadership in eradicating impunity
and its
pervasive effects on the country and its citizens.

In this light, we also welcome the statement by H.E. Mr. Kofi Annan,
Chair of
the Panel of Eminent African Personalities, dated 24 February 2009,
about a
Special Tribunal of Kenya. We are encouraged by the Panel's strong
commitment
to remain engaged. We share Mr. Annan's sentiment that failure by
the Kenyan
Government and Parliament to create a Special Tribunal would
"constitute a
major setback in the fight against impunity and may threaten the
whole reform
agenda in Kenya". Like Mr. Annan we welcome promised efforts by the
H.E.
President Mwai Kibaki and the Right Honorable Prime Minister to

re-engage
parliament to ensure the enactment of necessary legislation to
establish a
Special Tribunal.

On our part we urge Government and Parliament to take seriously
their
responsibility to ensure that justice prevails. The creation of a
Special
Tribunal to prosecute those responsible for the post-election
violence will be
an important step in efforts to end impunity and foster healing and
reconciliation. At the same time we understand the reservations many
Kenyans
express about a national process and we regret that the debate
thusfar has
been lacking transparency and inclusivity. Therefore we urge the
Government to
consult with all sectors of society and act in a transparent manner,
and to
take all necessary steps to create a credible and robust tribunal as
soon as
possible. Among aspects important for ensuring the credibility of
the tribunal
are guaranteeing its independence (to be reinforced by strong
international
representation (judges, prosecutors) - and providing proper
conditions for an
effective and independent witness protection programme. At the same
time, a

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local tribunal could help in rebuilding confidence in the country's
judiciary.
In parallel, judicial reform and action against corruption should be
urgently
considered as a further means to rebuild confidence.

Participating missions in alphabetical order:

Canada
Denmark
Finland
France
Germany
Netherlands
Norway
Sweden
Switzerland
United Kingdom
United States of America

End Text.

RANNEBERGER